

REMARKS/ARGUMENTS

Claims 1, 4, 6-8, 11 and 12 were amended to overcome objections noted by the Examiner. Claims 1, 4, 6-8, 11, 12, 14-22, and 24 are pending. The current claims have been drafted to be better tailored to the desired subject matter and for reasons related to currently contemplated commercial embodiments of the invention. No acquiescence is made to any position regarding patentability as set forth in the Office Action mailed November 3, 2006. Applicants reserve the right to pursue the subject matter no longer within the scope of the amended claims in a continuing application without prejudice.

No new matter has been introduced with regards to the claim amendments, and Applicants respectfully request allowance of the now pending claims.

Claim objections

Claims 1, 4, 6-8, 11, 12 and 14-17 were objected to because of the following informalities:

(1) In claims 1, line 10, after "handle" --,-- should be added.

This correction has been made as requested

(2) In claim 8, line 2, "further comprising the protrusion extending" should read -wherein the protrusion extends--.

This correction has been made as requested.

(3) In claim 8, lines 2-4, ", and wherein the locking mechanism includes a recess configured to mate with the protrusion when the locking mechanism when the locking mechanism is in the locked position" is allegedly redundant and should be deleted.

This correction has been made as requested.

(4) In claim 11, line 5, "the closed position" should read --a closed position--.

This correction has been made as requested.

(5) In claims 12 and 17, line 3, "a closed position" should read --the closed position--.

These corrections have been made as requested.

It is unclear from the Office action what the objections to claims 14-17 were, therefore no action was taken on those claims.

Since Applicants have amended the claims as requested the claim objections are believed to be moot and thus should be withdrawn. No new matter has been submitted.

Issue under 35 U.S.C. §112, First Paragraph

Amended claim 16 was rejected under 35 U.S.C. §112, first paragraph, as allegedly failing to comply with the written description requirement. More specifically the Examiner alleges that "the claims contain subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor at the time the application was filed, had possession of the claimed invention."

Examiner alleged that claim 16 as amended contained new matter because the disclosure on page 6, lines 16-18 of the original specification does not support the actions of the blade tang claimed in claim 16. Applicants agree that support for claim 16 is not found in that part of the specification. However, Applicants respectfully traverse because at least page 5, lines 21-29 do provide adequate written description, as shown below:

[0031] As shown in FIG. 8G, the locking mechanism 24 may be repositioned in the locking position when the knife is in the fully open position. Additionally, the tang 26 on the blade can be positioned such that the blade tang 26 displaces the locking mechanism from the locked position when the blade is closed from the fully open position to a closed position. Thus, the locking mechanism 24 can be repositioned in the locked position when the blade is fully open in order to minimize protrusion from the knife. However, placing the locking mechanism in the locked position while the blade is open does not adversely affect the ability of the blade to return to the closed position.

Based on the fact that the amended language of claim 16 is adequately described above the rejection should be withdrawn.

Issue under 35 U.S.C. §102

Claims 1, 4, 6-8, 11, 12, 14-22 and 24 were rejected under 35 USC § 102(b) as allegedly anticipated by Pardue (U.S. Patent No. 5,822,266). There is no Pardue U.S. Patent No. 5,822,266, there is however, a Pardue U.S. Patent No. 5,822,866, which is the patent we will assume the Examiner meant for the purpose of responding to this Office Action.

Applicants have carefully reviewed the statement of the instant rejection and respectfully traverse, because no case of anticipation is present. Simply put, Pardue does not teach all the requirements of the claims.

Specifically, Applicants note that the instant rejection relies upon the Examiner's belief that:

Pardue (Figs. 1-10) discloses a folding knife (20) comprising a handle/housing (22), a blade (24), a locking mechanism (80), a protrusion (100), a recess (110/112), a male portion (66), a blade female portion (72), a tab (98), a pivot pin (84), a tang (34), and a blade sharpened edge (78) as claimed.

Pardue discloses two mechanisms for its automatic opener, first there is the blade latch release button (54) enlarged and shown in Fig. 5, and then there is the lock lever (80) feature demonstrated in Fig. 6. Only the blade latch release button and its components directly lock the blade of the knife into either the open or close position. When the button is pushed the male portion that is camming the blade into a fixed position is withdrawn from the female portion of the blade and the spring forces on the blade force the blade into a fully open or closed position in which the male portion of the button re-engages the blade and locks it into place. Therefore, the locking mechanism on the blade is actually accomplished through button 54, not locking mechanism (80). The lock lever (80) does not interact directly on the blade, the lock lever merely pivots into place to block the blade release button from disengaging its male portion from the blade female portion.

The locking mechanism (80) described by Pardue does not lock the blade itself into the closed position, but rather blocks the automatic opening and/or closing mechanism from performing by physically blocking the spring release mechanism.

The present invention requires a pivotally held locking mechanism connected to the handle to lock the blade in a closed position. Although the locking lever (80) of the Pardue invention is pivotally held, it does not lock the blade in the closed position. Only the latch release button (54) actually locks and unlocks the blade, the locking lever (80) pivotally engages and disengages the latch release button (54) not the blade.

At least because Pardue does not teach a pivotally held locking mechanism for locking the blade into a closed position as described above, all of the pending claims are not anticipated by Pardue, and the rejection should be withdrawn.

Furthermore, at least in relation to claim 4, the locking mechanism (80) of the Pardue invention does not have any direct contact with the blade of the knife. Therefore, it is not possible for a male portion (66) (found only on the latch release button implement) of locking mechanism (80) to mate with a blade female portion (72) when the blade is in either an open or closed position. Claim 4 requires "the locking mechanism further includes a male portion for mating with a blade female portion when the blade is in a closed position and when the locking mechanism is in a locked position."

Contrary to Pardue the present invention claims a pivotally connected locking cam which interfaces directly on the tang through male-female engagements between the tang of the blade and the locking cam which physically prevents the blade from opening from a closed position, the locking cam acts independently from the assisted opening features of the present invention, and further does not assist with locking the blade into an open position.

In light of the comments above, Pardue simply does not disclose the instant invention. Accordingly, no case of anticipation has been presented, and this rejection may be properly withdrawn.

Claims 11, 12, 14, 15 and 17 were rejected under 35 USC § 102(b) as allegedly anticipated by Cunningham (U.S. Patent No. 4,811,486).

Applicants have carefully reviewed the statement of the instant rejection and respectfully traverse, because they believe no case of anticipation is present. Simply put, Cunningham does not teach all the requirements of the claims.

The Examiner argues that Cunningham discloses a folding knife (1) comprising a housing (3, 4), a blade (2), a locking mechanism (13), a protrusion (33), a tab (i.e. the portion of the locking mechanism 13 that is visible through notches 3a, 4a, when the knife is assembled as shown in Figs. 1 and 2), a male portion (14), a blade female portion (2a), and a pivot pin (16).

At least for the reasons that the protrusion (33) presented in Figs 1 and 2 of the Cunningham reference is shown protruding externally from the handle, whereas claim 11 and all the rejected claims which depend from claim 11 require "a protrusion...located near a base portion of the blade; **wherein the protrusion extends inward from the housing;**..."

It is clear that protrusion (33) referred to in the Cunningham reference does not protrude inward from the housing. The Cunningham protrusion extends in the opposite direction **outward** from the housing and therefore cannot anticipate the present invention. Due to the fact that Cunningham only teaches a protrusion which extends outward from the housing, Cunningham does not teach all elements of claims 11,12, 14, 15 and 17. Therefore, the rejection should be withdrawn.

Additionally the locking mechanism (13) element the Examiner refers to from Cunningham, shown in figures 1-5, is a dual-locking position mechanism. The first position, used when locking the blade in the open position, locks the blade in place until the locking mechanism is disengaged with a tab depression. Closing pressure applied on the blade will not close the knife until the tab portion is pressed and disengages the locking mechanism. In contrast, the second position, used when the knife is in the closed position only, biases the blade in a closed position with tension forces to help keep the knife closed. Opening pressure applied on the blade will open the knife as long as the force applied towards opening is greater than the spring biasing force towards closing. Therefore, there is no true locking mechanism on the closed blade in figures 1-5. One merely applies sufficient force to the blade to overcome the tension biasing forces and the blade opens. Furthermore, there is no independent disengagement of the so-called locking mechanism when the blade is in the closed position. The tab used to unlock the blade when fully open serves no function when the blade is in the closed position. Therefore, when the knife is in the closed position, there is no way to "unlock" the blade without physically beginning the process of opening the blade.

The inadequate teachings of the locking mechanism are further evident when reviewing how the locking link 13 element is described in the Cunningham specification. Column 3, lines 24-28 describe the locking mechanism as it relates to the knife in the **open** position as such: "In order to return knife blade 2 to its retracted position, initially locking pin 13 is depressed as shown in Fig. 2 which causes locking pin 13 to pivot about screw 38 thereby disengaging locking surface 14 from locking surface 23." Fig. 2 shows a finger depressing the tab-like portion on the far end of the knife, which disengages the respective locking surfaces 14 and 23.

The blade locking mechanism utilized when the knife is in the **closed** position in the Cunningham patent is described in the specification at Column 3, lines 4-14, as such:

According to a feature of this invention, knife blade 2 is held securely in the closed position, as shown in FIG. 4, by means of the cooperation between locking surface 14 and safety notch 2a. By this means, knife blade 2 is actually locked in position and is thereby prevented from accidentally opening. When knife blade 2 is opened by means of the rearward manual pressure on sliding knob 33, the spring pressure of locking pin 13 on safety notch 2a is overcome and knife blade 2 is free to swing into the extended position.

Therefore, Cunningham does not teach a safety locking mechanism which is independent of the blade opening mechanism. The opening mechanism of the knife is the same mechanism which is used to "unlock" the blade from the closed position. One simply slides the opening knob for the knife with enough pressure to overcome the pressure of the locking pin. It is debatable whether simply pushing on the opening mechanism hard enough to overcome a spring resistance is really a true locking mechanism. In contrast, the instant application claims an independent physical obstruction of the blade tang which, regardless of the pressure applied towards opening the knife, will not allow the blade to open until the physical obstruction is removed. After the locking mechanism is moved into an unlocked position, the user can then open the knife using a separate blade-opening mechanism.

The dual purpose mechanism of the locking pin taught by Cunningham is further reiterated in claim 4 which reads:

4. A knife according to claim 1 wherein a pivotally mounted locking pin is interconnected generally at one end thereof to said base element by means of a

leaf spring and wherein a pair of locking notches are formed on opposite edges of said blade and are alternately engageable by the other end of said locking pin to hold said blade open or closed.

As previously stated none of the claims of the present invention utilize a single dual-purpose locking mechanism for locking the blade in both the open and closed positions.

Furthermore, the tab portion as described in Cunningham above is used solely for unlocking the blade from the open to the closed position, and is not used in conjunction with the locking mechanism related to holding the blade in "a securely closed position." In contrast the "tab" associated with claim 13 of the present invention is used solely for locking and unlocking the blade while in a closed position, and serves no other function in relation to the opening of the knife or locking the knife in the open position.

As such, Cunningham simply does not disclose the instant invention. Accordingly, no case of anticipation has been presented, and this rejection may be properly withdrawn.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 858-350-6100.

Respectfully submitted,



Scott E. McPherson
Reg. No. 53,307

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, Eighth Floor
San Francisco, California 94111-3834
Tel: 858-350-6100
Fax: 415-576-0300
Attachments
SEM:ps
60915050 v1